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The Emergence of New Islamic Economic and Business Moralities

Harun Sencal* & Mehmet Asutay*

Abstract

This paper aims to explore the sources of the observed transformation in the embeddedness of economic, business and financial practices of Muslim individuals in comparison to pre-modern period Muslims. It argues that the predomination of instrumental reasoning in modern times, as opposed to substantive morality in everyday practice, is one of the main reasons behind the transformation of embeddedness of Muslim individuals. Instrumental reasoning, being the dominant methodology, leads to diminished submergence in social relations; that is not limited to interpersonal relationships, but further extended to the core religious acts. How such an emergent economic and business morality is reconciled with the Islamic substantive morality is examined. It is argued that ‘transformation of exception into norm’ is the main method used to reconcile instrumental reasoning with Islamic law in fulfilling religious obligations, at least in terms of fulfilling the form and in complying with the necessities of modern life. This has led to the emergence of new economic and business moralities.

Keywords: Instrumental reasoning, embeddedness, Islamic morality, public utility (*maslaha*), Islamic finance and business

1. Introduction

The contemporary period has witnessed the emergence of an alternative and faith-based financial sector in the form of Islamic financial arrangements and banking sectors. Islamic legal theory and practice blended with the Islamic normative world mainly determines and shapes the operations of this financial sector. Its unprecedented success as a sector, with a growth rate of 15.7% for the 2007–2014 period (Asutay 2015, 19), motivated the major financial centres to consider it being a profitable financial option. However, its growth and development have raised a number of concerns leading to a debate around ‘form’ and ‘substance’, suggesting that form orientation has become dominant, while the essentialisation of substance has been ignored in its operational forms and transactions (Asutay 2012). Thus, we have witnessed the emergence of new economic and business moralities as well as behavioural norms, as opposed to normatively constructed Islamic ethics.

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As Hallaq (2012) argues, the central domain of Islam is morality as defined by Islam and through which other domains such as law are determined. Islamic normative values, as an articulation of the morality of Islam, are aimed at constructing a particular social formation, based on substantive morality, according to which both relationships between the individual and society (horizontal relationship) and between individuals and the God (vertical relationship) are regulated. These normative values suggest a state of embeddedness of an individual with his/her surroundings including, but not limited to, economic and financial affairs, which should be shaped according to the prescribed morality of Islam, as the moral substance of Islam aims to promote a moral society, especially in terms of economic relationships. In the pre-modern[†] period, when religion was one of the dominant institutions in society, the morality of Islam was significant in determining the everyday practice of people and, therefore, in constructing a substantive morality-based society. However, with the rise of instrumental reasoning in contemporary times, when the market society dominates and promotes an articulation of its own ‘morality’ in the society, we observe a transformation in societies of Muslim majority countries, which leads to a shift in embeddedness of individuals’ actions. This shift further leads to a way of life that has resulted in the hybridity of Islamic normativeness with the prevailing modern values. As a consequence of such a transformation of the society, instead of a ‘direct embeddedness’ of individuals, suggesting a particular social formation (such as Islamic social formation), we observe embeddedness in society through the market mechanism. This embeddedness could be termed as a ‘proxy embeddedness’ defining the observed hybrid social formation.

We argue that it is evident through ontological sources that Islam encourages the establishment of strong ties between the members of society. Islam further regulates these relationships through ethical principles as well as revealed laws, such as the responsibility of individuals towards society (e.g. towards neighbours, relatives and needy people in the society) and the performing of certain acts of worship with other members of the society or *ummah* at large (e.g. Friday and *eid* prayers or festival congregations, *haji* or pilgrimage and *zakat* or mandatory alms giving for those who possess more than a certain amount of wealth). Such

[†] Modern refers to a particular way of organising the society through enlightenment-based ontological references, in which rationality and individualism determines behavioural norms, and hence ethics is not considered as an integral part of behaviour leading to disembodiedness in the sense that economic and financial activity is no longer organically embedded in the social formation and value system of a particular society (see: Polanyi, 1957). Polanyi (1957) states that pre-modern societies were moral societies as the social formation including morality was essentialised in determining every aspect of life, including economic and financial matters, leading to embeddedness.

ethical principles and laws are expected to lead to the submergence of individuals into society, which constitutes one of the main pillars of the Islamic moral economy (IME).

As it was suggested by Polanyi (1957), such embedded behaviours and actions within the society are not unique to Muslim societies during pre-modern period. However, unlike other pre-modern societies, rules and regulations to sustain Muslim communities have been constituted through revealed laws and the practice of the Prophet and should be considered, at least in terms of principles, ahistorical. By this, we mean that the encouragement of the community-wide practices of Islam was not socially constructed in a particular period of Muslim societies but was rather established as a result of the morality of Islam. However, it is important to note that while the existence and significance of embeddedness into society is constructed by ahistorical principles, its articulation in everyday practice is socially constructed.

In the modern period, the experience demonstrates that the rise of the market economy and the prevailing principles of the capitalist market system eventually affected Muslim majority territories as well (Esposito 1980). Although, due to the rise of secular nation-states, Islamic law has no power of enforcement on people in modern Muslim states (Azak 2010), at an individual level, Islamic law and *Shari'ah* scholars have still remained an implicit source influencing the everyday practice of Muslim individuals (Zaman 2002). Nevertheless, the perceived lifestyle of Muslims and established institutions to facilitate religious responsibilities in modern times suggest that the submergence of Muslims in the society, compared to former periods, has drastically changed and has significantly decreased in nature. Hereby, the principles of the capitalist market economy and its hegemonic nature in shaping the individual behavioural norms have played an important role, as most Muslim societies have opted for a market economy (beyond market exchange).

One of the outcomes of the emergence of modernity has been the elevation of the status of instrumental reasoning to sustain the everyday life of people, raising it to a primary position (Taylor 1991). Instrumental reasoning is defined as pursuing the most efficient application of means for a given end in the decision process (Taylor 1991). Being the dominant methodology, instrumental reasoning leads to the diminished submergence in social relations and is not limited to interpersonal relationships but additionally extends to core religious acts, such as animal sacrifice during *eid ul-adha* and paying due *zakat*.

If, however, the submergence of an individual's action in society is one of the pillars of morality of Islam, then how can economic and financial acts based on religious norms be structured in such a way as to result in proxy embeddedness? In exploring this question, this study claims that the 'transformation of exception into norm' within Islamic law in modern times and the establishment of the institutions based on exceptions, are the leading methods to reconcile the instrumental reasoning emerging from the modern application of Islamic law.

This article, hence, aims to explore the reasons behind the observed transformation in the embeddedness of Muslim individuals in the society, in contemporary times, as compared to the Islamic normativeness shaped practices observed and recorded in the pre-modern period. In addition, this article examines how such an emergent contemporary social formation and morality is reconciled with the principles of Islam.

The rest of the article is organised as follows: Section 2 presents a theoretical and conceptual framework, while Section 3 examines the cases from pre-modern times to contextualise the subject of this article. Section 4 discusses instrumental reasoning in modern times by demonstrating the shift from direct to proxy embeddedness, wherein the main argument of this article is then discussed. Section 5 provides the conclusion.

2. Theoretical and Conceptual Framework

Following Karl Polanyi's seminal work, *The Great Transformation* (GT), embeddedness as a concept became popular, especially in economic sociology, despite the fact that the term was not at the centre of his book (Beckert 2007). Due to the ambiguities of the concept with its usage in GT, several research strands in explaining modern capitalism appeared in the literature in relation to embeddedness, such as 'always embedded markets', 'varieties of capitalism' and 'entanglement', referring to different levels and natures of embeddedness (Krippner and Alvarez 2007). Furthermore, Granovetter (1985) re-defined embeddedness as a structural relationship among networks beyond the mentioned attributes and nature. In this attempt, instead of adopting the macro analysis of Polanyi, Granovetter (1985) focused on micro and meso-level relations among organisations and defined such relationships as embeddedness (Krippner and Alvarez 2007). Although the structural embeddedness of Granovetter has led to another research field which is mostly investigated through organisational relationships, Zukin and DiMaggio (1990) expanded the dimensions of embeddedness by suggesting three further embeddedness dimensions, namely political, cultural, and cognitive embeddedness.

The similarity of all these different interpretations of embeddedness and their various research strands is that they all analyse the impact of different dimensions of the embeddedness of social actors on economic actions. In order to provide a better understanding, Table 1 summarises various dimensions of embeddedness and provides short definitions (Marx 2004, 65).

Table 1: Studies on the dimensions of embeddedness

Dimension	Definition
Relational	Relational embeddedness refers to the quality of the relationship and highlights the effects of cohesive ties between social actors on their economic actions
Structural	Structural embeddedness captures the impact of the structure of relations around social actors on their economic actions
Positional	Positional embeddedness captures the impact of the position social actors occupy in the overall structure of the network on their economic actions
Cognitive	Cognitive embeddedness refers to the ways in which common mental models, or a shared vision among social actors impact their economic actions
Cultural	Cultural embeddedness captures the impact of ideologies of markets, industry cultures, and management logics on the actions of the social actors
Political	Political embeddedness refers to the impact of power struggles, and sanctioning mechanisms, on the economic actions of the social actors

Source: Marx (2004, 65)

As evidenced from the definition column, studies related to embeddedness mostly focus on social actors and their economic actions rather than using it in a wider sense, such as examining its impact on all actions. However, as Beckert (2003, 769) suggested, embeddedness “points to the indissoluble connection of the actor with his or her social surrounding”. Therefore, all the dimensions of embeddedness which focus on the relation of social actors and economic actions constitute one part of embeddedness, since the connection of actors with his/her social surrounding is not limited to an economic activity.

In this article, in order to encompass both economic and non-economic relationships between social actors and their surroundings, namely society, we prefer to use embeddedness in a wider meaning and use the definition of embeddedness given by Beckert (2003, 769), namely an “indissoluble connection of the actor with his or her social surrounding”.

Every society has its own unique social formation, which leads to different degrees of and ways to articulate the connection between social actors with their surroundings. For example, in terms of Muslims and their relationships with their surroundings in the pre-modern period, we understand that the morality of Islam encouraged individuals to have direct engagement with their surroundings as part of articulating religious norms in everyday practice, which can be

termed as ‘direct embeddedness’. On the other hand, market societies in modern times offer a different kind of embeddedness, in which social actors may engage with their surroundings efficiently through markets, which we can term as ‘proxy embeddedness’. In proxy embeddedness, the market system functions as an intermediary. In this transformation, a variety of indirect embeddedness, through various methods and tools, has emerged in each society with varying degrees from one society to another.

Modernity, as with any complex term, is defined and understood in various ways. In each of these definitions and understandings, different concepts have been located at the centre. While this paper focuses on the emergence of the market system following Polanyi (1957), other authors located “mechanisation and the industrial revolution; urbanisation; democracy and socialism; professionalisation, specialisation and Taylorisation; unequal social development, or unequal participation in it; early modern humanism; and Enlightenment and its legacy” at the centre (Whitworth, 2010:109). However, as Whitworth (2010:109) argues,

Much of the contradictoriness of modernity is explicable with reference to the thesis advanced by Theodor Adorno and Max Horkheimer in *The Dialectic of Enlightenment*: the rationality intended to free mankind from religious superstition has come to enslave humankind in social and intellectual systems of its own devising. Reason in the modern era is purely instrumental: it is directed towards narrow goals; it treats its objects as means to an end; it takes its bearings from commerce and from quantitative knowledge.

As mentioned above, the rise of instrumental reasoning in the everyday practice of life in modernity plays the main role in facilitating such transformation from direct embeddedness to proxy embeddedness. Instrumental reasoning is, thus, a way of thinking that prioritizes maximum efficiency and the best cost-output ratio to evaluate the success of an action (Taylor 1991). In other words, an individual guided with instrumental reasoning ought to act according to the most efficient economic application of means for a given end. Therefore, if a behaviour has a high transaction cost compared to another, the behaviour with a lesser transaction cost should be preferred according to instrumental reasoning.

In order to reconcile Islamic law with the established institutions of instrumental reasoning, a ‘transformation of exception into norm’ has been utilised. The ‘transformation of exception into norm’ has become a method of compliance with both necessities of modern life, which are predominantly constructed on instrumental reasoning and Islamic law, at least in terms of fulfilling the form requirement. However, such compliance contradicts the Islamic moral economy due to the lack of direct embeddedness of individuals in the expected social

formation, and therefore, it becomes insufficient to prevent individualism, which is targeted by Islamic norms (Elasrag 2015). In a similar manner, the modern practice of Islamic banking and finance is constructed through the ‘transformation of exception into norm’, for which the concept of *maslahah* or public interest is utilised to pave the way for the creation of hybridity in the form of innovated Islamic financial products, based on their contemporary conventional equivalences. In other words, proxy embeddedness emerges through the facilitation and institutionalisation of the ‘transformation of exception into norm’. Therefore, the current debate in Islamic finance circles always returns to ‘form vs. substance’, or ‘Islam-based finance vs. the *Shari’ah* complaint finance’ and highlighting the essentialisation of ‘Islamic morality’ as opposed to the ‘emerging Muslim morality’, which is a product of blending with market instrumentality.

It is important to note that this study does not suggest that the form is insignificant and that only substance has value. Rather, as Imam Ghazzali (1988) emphasised, we point out that there are external (*zahir*) and internal (*batin*) aspects of behaviours in general and in economic and financial matters in particular, such as paying *zakat* or being involved in trade, which could be considered as form and substance. This suggests that both aspects are important. Meanwhile, the abolition of form might lead to a Tufian understanding of *maslahah* or public utility, in which scriptural texts are interpreted or abrogated according to the *maslahah* understanding of contemporary people. However, the abolition of substance might lead to a form-based *fiqhi* approach in which *Shari’ah* scholars are contended with legal support from previous scholars in terms of legitimising a legal ruling without pondering upon the context and potential outcomes in the contemporary period. In the current practice of *Shari’ah* scholars of a *Shari’ah* Board (SB), we predominantly observe the latter while the former has been utilised as well in cases where the form-based approach has not been sufficient to legitimise a certain product or service. However, the consideration of both form and substance, substance being the morality of *Shari’ah*, has been a minority practice in the everyday practice of IBs.

In order to compare the transformation from the pre-modern period to the modern period, in terms of embeddedness and how the market reconstructed certain activities in compliance with instrumental reasoning, in the next section we elaborate the promotion of direct embeddedness according to Islamic norms and values through obligatory laws and the encouragement of voluntary actions in Islam. However, since our focus is on the Islamic moral economy and the

transformation from the pre-modern period to the modern period, we limit our examples to socio-economic areas.

3. Exploring Cases from Pre-Modern Times

Similar to many other pre-modern societies, in a Polanyian (1957, 46) sense, ‘man’s economy’ was submerged into the society in Muslim majority societies. However, due to its epistemology and inheritance from the pre-Islamic period, Muslim societies, historically, developed and constructed a particular (Islamic) social formation, which led to different mechanisms of sustaining an embedded relationship within the society. Several examples can be examined as part of this social formation in understanding the nature of embeddedness which prevailed in historical Muslim societies. For example, in essentialising social good, instruments such as *zakat* and charities have been constituted as part of redistributive mechanisms, in line with the Islamic moral economy, to ensure embeddedness. In addition, as an example of a social security system, the *aqilah* system was established as a supervision and support system among relatives to ensure well-being. Furthermore, *tawarruq*, as a financial instrument, is used as a last resort to provide liquidity in case *qard al-hassan* (benevolent loan) or other debt instruments are not available or viable.

In explaining the direct embeddedness of pre-modern times, as mentioned, *zakat* can be given as an example, which is one of the most important Islamic religious practices being one of the five pillars of Islamic belief system, due to combining consequentially material and spiritual worship in one action. As an economic and financial responsibility for rich Muslim individuals, *zakat* has an essential role as a material distributive mechanism in society, for it is defined as returning the right of the society to the society in the form of the right of the eight categories of deserving people over the riches of the society (Qur’an 9:60). Although collection and distribution of *zakat* was practiced by governmental structures during the era of Prophet Mohammad and the first two caliphates, after the time of Uthman, the third caliph, *zakat* from immanent goods was not collected from Muslims, and the responsibility to distribute was left to the individuals (Fauzia 2013). Relinquishing the responsibility of distribution is an opportunity to establish bridges between different socio-economic parts of the society, since finding a member of the eight categories, specified in the *Qur’an* as recipients of *zakat*, is also part of the responsibility.

In other words, after the initial period, *zakat* collection was left to the individual and the civil society without interference of the state during the Ummayyad, Abbasid and Ottoman eras as the *Qur'an* does not determine a particular nature of collection. However, such a move should be considered as a disruptive move due to the changing political economy in Muslim societies as well as through the evolution of the state mechanism from a '*khalifah*-based' state to a '*sultanate* state' (Hussain 1992). As Weiss (1986: 81) states in reference to after Umar bin Abdul Aziz's *caliphate* period, "after 720 AD, *zakat* was considered an individual responsibility and act of devotion". Therefore, as mentioned by Kaya (2017), during the Ottoman Empire, there was no collection of *zakat* as such, nor was there any reference to *zakat* collection as an item in the Ottoman budget system. However, such a disruptive move had positive implications in conducting *zakat* by essentialising substantive morality, as it enabled a connection to develop between the *zakat* giver and *zakat* receiver until recent times. With the emergence of technology and with the efficiency paradigm of market in mind, *zakat* is now instrumentalised by dislocating the connection between the givers and receivers through *zakat* collection mechanisms. *Zakat*, hence, is a good example in exploring the impact of instrumental reasoning on the economic religious practices of Muslims in modern periods as a result of the evolutionary political economy in Muslim societies.

Sacrifice of animals in *eid al-adha*, for the sake of Allah, in commemorating the tradition of Abraham in terms of testing individual piety, is another example of such a distributive mechanism, as a religious practice for affording individuals who are expected to distribute the meat to needy people and neighbours. Furthermore, voluntary charities also constitute an important part of redistributive mechanisms. Although it is encouraged to give to charity without getting attention and without humiliating the receiver, it is important to know the person to whom one is donating, namely the needy, with the objective of rendering the donation beneficial to ensure that it is given to deserving people. Therefore, giving requires a certain level of connection with the surroundings in order to locate needy people, which is, by definition, an articulation of embeddedness which occurs as a result of certain efforts.

Another example of the responsibility of direct embeddedness of historical Muslim society is the payment of *diyat* (compensation for the victim) in certain cases of crime, such as unintentionally killing someone, as part of the *aqilah* mechanism. The *aqilah* system requires the distribution of the financial obligations in the form of blood money, and in the incident of killing someone by mistake by means of a binding donation (Sabbagh 2012). As a mutual

indemnification system, *aqilah* was practiced before the emergence of Islam and continued to be practiced after consent was provided by the Prophet Muhammad (Anwar 2008).

Regarding the working mechanism of the practice of *aqilah* according to the tradition of the Prophet Muhammad, it is as follows: If a member of a tribe murders someone by mistake, he has to pay compensation (blood money), which is usually distributed amongst the male members of his tribe (Sabbagh 2012). Based on this definition, we can conclude that the members of his tribe (*aqilah*), by the obligation of the *Shari'ah* or Islamic law, share the consequences of the incident equally. It is important to state that in the *aqilah* system, each group is composed of members of a tribe who are connected to each other through blood. Male members of a tribe are considered as ‘people of support’, which, hence, constituted in modern terms a social security system and “each one of them is the insured, and the insurer at the same time” (Sabbagh 2012, 22).

The most important feature of the *aqilah* system is the process before an accident happens. In exploring the classical books of Islamic law, especially books of the Hanefite School of thought, which is one of the mainstream schools of thought regulating religious practice, we find that the cause of payment of blood money by the people of support is not solely financial support for a member of their own tribe, but also a fine to the eligible tribe members due to failing to perform the task of supervision to prevent the occurrence of the experienced incident (Al-Kasani 2003). Hence, the *aqilah* system should be considered as a pro-active support institution or even an insurance mechanism.

Al-Kasani (2003, 10:314), one of the leading jurists of the Hanefite School, in reconciling the existence of the *aqilah* institution with the position articulated in the *Qur'an* (39:7) that “Nor can a bearer of burdens bear another's burdens”, states that,

Supervision of murderer is an obligation for his *aqilah*; if they do not supervise, they neglected. And negligence is a sin for them. Because the murderer kills only relying on his tribe. So, they were like associate in the murder.

Al-Kasani's (2003) argument in the reconciliation of the verse and the *aqilah* institution suggests a particular social formation in which supervision of one another is a responsibility under certain conditions and might incur financial losses in its absence.

In fact, it is one of the requirements of Islam that Muslim individuals ‘witness on each other’ since ‘individuals are trusted to one another’ through being the creation of God through the

ihsani or the good society nature. However, in general there is no enforcement regarding a failure of a person to perform this task, while the *aqilah* system constitutes another method of encouragement to establish ‘connection with surrounding’, in this case with relatives in the form of extended supervision.

The last example explored in this study within the given frame of ‘direct embeddedness’ is *tawarruq*, an Islamic financial instrument, the importance of which has emerged in its modern usage as ‘organised *tawarruq*’, which has become the backbone of the modern Islamic financial sector (Khniifer 2010). In its classical form of utilisation, *tawarruq* is used to facilitate and overcome the short-term liquidity needs of financial institutions as well as individuals (Dusuki 2010), which extends to debt, whereby the Islamic moral economy aims at discouraging debt. The working mechanism of *tawarruq* is as follows: the *mutawarriq* (seeker of cash) buys a commodity at a deferred sale and then sells it for cash at a lower price to another person other than the initial seller (Dusuki 2010). Since the *mutawarriq* buys and sells the product himself to obtain cash, he has to be involved with the market in person to achieve his intended goal, which promotes direct embeddedness with the surroundings.

As these examples suggest, Islamic norms and regulations aim to construct a society in which social actors are expected to connect to their surroundings whereby Islam aims to promote ‘submergence of man’s action into the society’. However, the social transformation of societies leads to changes in relationships, and as a consequence of the reconstruction of these social formations, norms and regulations change. Having different epistemological sources led modernity to reconstruct a unique social formation compared to the pre-modern period. As an outcome of modernity, capitalist systems and market societies have their own norms and values, which are distinctly different to Islamic norms and values. Therefore, in the modern world, social actors have a different kind of embeddedness, implying different mechanisms of connection with their surroundings. The individualistic structure of society in modern times, which is a predominant social structure in market societies, has cut the physical and genuine ties between the social actors and their surroundings and has re-established, or at least strive to do so, those ties through the market mechanism. As a result of such an on-going process of re-embeddedness, we observe different levels of embeddedness of man with society. In other words, although the market society has its own embeddedness for both economic and non-economic actions, such embeddedness is different to the embeddedness of pre-modern societies. Instead of having a direct connection with the surroundings as in pre-modern times,

in modern times this connection is established through the market system and its ever developing and changing instruments. However, this re-embedding in terms of its level and nature is a continuous process. Therefore, we observe different levels of market interference in different societies, resulting in a mixture of direct and proxy embeddedness with different degrees and levels. This can be explained by the duality of economic and social life (Das, 2015) as due to the increased urbanisation and heavy penetration of modernity, the centres in the Muslim world, whether in Africa, Asia or Middle East, have developed modern structures leading to further disembeddedness or proxy embeddedness, while the periphery in most of the Muslim countries remains communitarian with strong bonds, showing a higher level of embeddedness and substantive morality.

The interposition of a market as an intermediary in terms of providing the connection of social actors with their surrounding is an articulation of instrumental reasoning which became particularly prevalent in modern times. After presenting the cases in their original form, in the next section, we discuss to what extent these cases have transformed in modern Muslim societies and communities, leading to the emergence of new Islamic moralities in relation to economy and business practices.

4. Shifting from Direct Embeddedness to Proxy Embeddedness: Instrumental Reasoning at Work in Modern Times

After providing the necessary context in the preceding sections, this section aims to discuss the transformation of embeddedness as a result of the rise of instrumental reasoning in modern times. In doing so, the cases discussed above are revisited to demonstrate the shift that has taken place in the nature of embeddedness, by developing proxy embeddedness as a new form of social formation.

The emergence of institutions with the purpose of collecting *zakat* payments and the distribution to deserving individuals and causes are examples of such changes in embeddedness. Due to urbanisation, Muslims who are obliged to pay *zakat* are no longer required to spend time finding a suitable person to dispose their *zakat*. In other words, they are not required to connect with ‘*zakat* receivers’, as there are institutions which can deliver such duties on their behalf.

In a similar way, another such emergent institution is for the sacrifice of animal, either for *eid al-adha* or other reasons. Compared to *zakat*, animal sacrifice is costlier, considering the need

to purchase the animal and then slaughter and distribute it to needy people and neighbours, which helps build a connection with both groups of people. However, in contemporary times, such a costly – in terms of transaction costs – process of fulfilling worship is no longer considered as practical or suitable as it was in the pre-modern period. Thus, following instrumental reasoning, the most efficient means are established to achieve the end regarding animal sacrifice, at least in terms of form.

The mechanisms and institutions that have emerged to fulfil such religious obligations now operate through a market system, as concerned Muslim individuals can pay a certain amount of money to delegate such responsibility to an institution, whereby they do not have to be involved in any aspect of the process of such worship. As a result, they may be relieved of the fulfilment of a particular worship, despite neglecting the substance of that worship as required. In this process, from the perspective of the ‘customer’, there is no difference in terms of the process between ‘*zakat*’ or ‘animal sacrifice’ besides the amount they need to pay. Furthermore, with the emergence of electronic payment systems, a Muslim may decide to sacrifice an animal in another country, where it may be cheaper than in the local market, and pay the fee through an online payment system. Hence, the market replaces the unique relational nature of conducting such worship and, through its innovative capacity, leads to the emergence of new moralities in a proxy-embedded sense.

Besides the obligatory payment of *zakat*, which has to be given to a certain group of people, voluntary donation has far more diverse options to fulfil the expected moral duty in contributing to social good due to the efficient facilitation of the market, without the need for any connection with needy people. Such innovative processes provided by the market still ensure a clear conscience as an outcome of charitable act in terms of fulfilling a duty. Various banking products acting as intermediators between wealthy and needy people as part of CSR projects and donating money via online banking systems or text message are merely a couple of such emergent examples.

Another example of direct embeddedness in pre-modern time, as mentioned, is the *aqilah* system, which is one of the foundations upon which modern *takaful* companies ground their legitimacy. The first *takaful* company in modern times was established in Sudan in 1979 with the intention of being a substitute for conventional insurance operations (Tolefat and Asutay 2013).

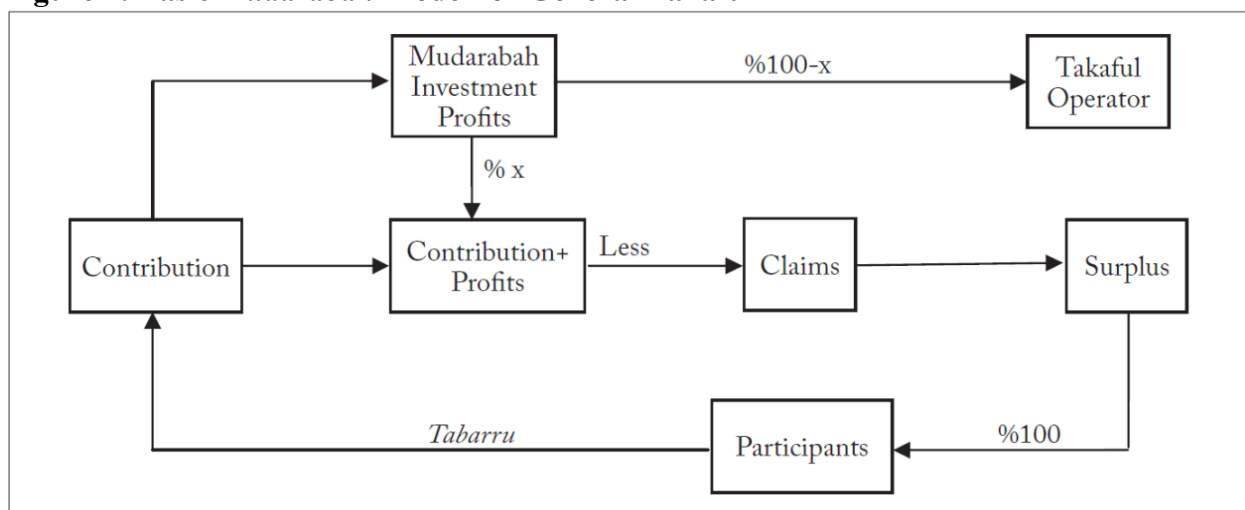
In substantiating the historical connection, Ernst & Young Takaful Report (2012, 5) defined *takaful* in a manner that expresses the substance-related similarity between modern *takaful* and *aqilah*:

Takaful is based on the concept of social solidarity, cooperation and mutual indemnification. It is a pact amongst a group that agrees to donate contributions to a fund that is used to jointly indemnify covered losses incurred by the members. While the concept of Takaful revolves around mutuality and is founded on non-commercial basis, the operations and the fund are commonly managed by a Takaful operator on commercial basis.

As the practice of the industry indicates, there are several models of Islamic insurance which are being practiced by *takaful* companies across the world: *mudarabah* (business partnership) and *wakalah* (delegation) models are the most dominant ones. However, *waqf*, hybrids of *mudarabah* and *wakalah*, *ta'awuni* and non-profit funds have also been adopted by companies (Alnemer 2013). The *mudarabah* model is explained below to exemplify the operating method of the *takaful* system.

In the *mudarabah* model for general *takaful*, an investor (*rabb al-mal*) enters into an agreement with a fund manager (*mudarib*), which involves a profit sharing arrangement according to a predetermined ratio. As can be seen in Figure 1, in this model the underwriting and investment activities are covered by one contract. Participants do not pay an upfront management fee or investment fee. However, expenses such as claims, re-*takaful* arrangement, and direct expenses were paid by the participants, while the shareholder's fund is responsible for the other indirect expenses, such as salaries and rent (AlNemer, 2013).

Figure 1: Basic *Mudarabah* Model for General Takaful

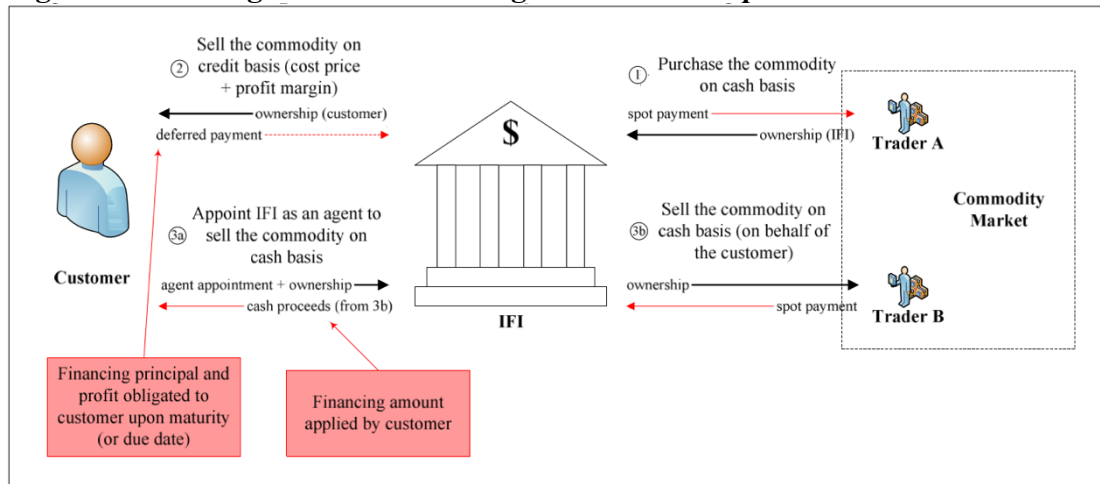


Source: AlNemer (2013, 241); IFSB (2009, 28)

In *takaful*, an important point is that the only contribution of participants is the *tabarru* (voluntary donation) of a certain amount of money to participate in the pool; the rest of the procedure is handled by the institution. Unlike the original *aqilah* system, no task or responsibility of supervision of one another is undertaken. In other words, while “*takaful* is based on the concept of social solidarity, cooperation, and mutual indemnification” (Ernst & Young 2012, 5), there is no direct embeddedness in the social formation of a society among the group of people involved beyond merely recognising each other through market operation. Their only responsibility is “to donate contributions to a fund that is used to jointly indemnify covered losses incurred by the members” (Ernst & Young 2012, 5). Hence, in enforcing instrumental reasoning, an Islamic alternative to insurance is constituted based on the *aqilah* system, but without a social responsibility or bond, with the objective of obtaining the most efficient means of achieving the end, which is protection against risks. Thus, as the example demonstrates, a new morality emerges as a consequence, which is different to the ontologically constructed embeddedness and morality required by Islam.

The last example in this section is the modern version of *tawarruq*, or organised *tawarruq*. Although classical *tawarruq* is also a controversial instrument to employ, the International Council of Fiqh Academy (ICFA) deemed it as permissible, while stating that the organised *tawarruq* of the modern Islamic banking sector is impermissible (Al-Suwaylim 2009). As is the case with above examples, the main difference between classical and organised *tawarruq* is the elimination of intermediary steps and the transfer of those steps to institutions of the market, in this case to Islamic banking. As the desired end of this process is to obtain quick cash to overcome a liquidity needed, the market provides the necessary means with the most efficient method to achieve this end. However, as is also the case with the earlier examples, the substance or direct embeddedness of the social actors disappears during the process, and the market remains the only medium to embed. An example of the operations of organised *tawarruq* in Islamic banks is depicted in Figure 2.

Figure 2: Working Mechanism of Organised *Tawarruq*



Source: Ghazali (2014: 70)

In comparison, it is mostly argued that organised *tawarruq* is considered not fulfilling *Shari'ah* compliance, due to the fact that the role of all intermediary transaction is assigned to Islamic banks with the objective of providing an efficient instrument which has the lowest cost while sustaining *Shari'ah* compliancy (Al-Suwaylim 2009). Therefore, the full burden of buying a commodity with an instalment and finding a buyer to whom to sell that commodity on a cash basis, is handled by the Islamic bank. It is important to note that in most cases there is no movement of a commodity, which proves the fictitious nature of the transaction. Thus, all the interaction in the market is replaced by an exchange of commodities without any involvement of the customer. Therefore, the Islamic bank as an institution of the market system acts as a proxy to achieve the customer's goal without any direct involvement of the customer with his/her surroundings.

An argument in favour of *zakat* and *takaful* institutions or the utilisation of organised *tawarruq* might be proposed by claiming that it is due to a lack of opportunity to spare time to engage in such responsibilities personally. *Zakat* institutions and other services with similar purposes serve a Muslim community by enabling them to fulfil their responsibility in the existing circumstances, which are usually beyond the control of Muslim individuals. Therefore, it is not the instrumental reasoning approach taken by Muslim individuals but rather the given conditions that lead to the establishment of such institutions. As a response to such an argument, it is important to emphasise that this study acknowledges that it is the current social formation of Muslim societies and its underlying institutional logics which facilitate such emergent institutions such as *zakat* institutions or other services. By social formation, we mean,

for instance, the organisation of the urban environment, which makes the involvement within the neighbourhood difficult due to apartment life, working hours which leave little room for individuals to submerge themselves into the surroundings, and so on, which are constructed mainly with instrumental reasoning to produce the highest outcome within the society. In other words, *zakat* or *takaful* institutions are part of the system in which they are shaped and constructed. Therefore, a change in such institutions requires a holistic view of the social formation of modern societies and requires a holistic approach to provide another transformation.

5. Norm-based vs Exception-based Moral Economy

The preceding sections explore how the economic actions of social actors changed from pre-modern Islamic societies to modern market societies, with efficiency replacing direct embeddedness by creating proxy embeddedness. In considering direct embeddedness and ontologically established moral economy and considering emergent proxy embeddedness and Islamic moralities, the question is whether both types of Islamic moral economy have the same degree of fulfilling the Islamic substantive morality, which is an essential requirement along with form compliance.

In responding to this essential question, this article argues that direct and proxy embeddedness do not have equal substance in fulfilling Islamic expectations and that direct embeddedness is superior to the proxy embeddedness. This is due to the reasoning that within direct embeddedness the means to an end are considered part of the outcome, which demands that form nature be accompanied by substance nature. However, in proxy embeddedness, in which means are considered apart from the end, the most efficient means could be selected from among a number of options available. Since the means are taken into account in order to evaluate the fulfilment of an end, direct embeddedness is, therefore, superior to proxy embeddedness in terms of the evaluation of the fulfilment of an end.

Furthermore, ‘means’ in direct embeddedness facilitates the embeddedness of individuals into the society, which is one of the main features of a substantive Islamic morality. Moreover, direct embeddedness may be defined as a norm-based Islamic moral economy, while proxy embeddedness could be termed as an exception-based Islamic moral economy, since it is through the exception that the market facilitates certain aspects of an Islamic moral economy in modern times. This is due to the fact that the method used by contemporary jurists to

legitimise an emergent institution, such as *zakat* institutions or Islamic banks with a heavy dominance of organised *tawarruq*, is to appeal to an exception in the sense of the utilisation of a proxy to facilitate transactions with the most efficient means. Under normal circumstances, it is expected that an action should be conducted, regardless of whether economic or non-economic, by the person responsible to ensure submergence. On the other hand, in modern times, due to certain limitations, this is not always possible as the fulfilment of obligation can be shifted to another eligible person who undertakes the responsibility of fulfilling the task. This, however, is not the norm but rather the exception of the everyday practice of people. As the examination of the modern practice of the cases demonstrates, in order to sustain the religious responsibilities on the one hand and comply with the demands of modern life in line with instrumental reasoning on the other, various proxy systems have been institutionalised based on exceptions (e.g. delegation). As a result, instead of a direct embeddedness of individuals into society, we observe that Muslims are embedded into society through various instruments of the market. Such a transformation of the nature of embeddedness, consequently, led to the emergence of new Islamic moralities in the modern period.

Furthermore, in some cases, such a conversion of exception into norm does not yield legitimate solutions, not even in terms of form compliance. This is the case, for instance, with organised *tawarruq*. In responding to the controversial nature of *tawarruq*, the ICFA ruled in 2003 that organised *tawarruq* is prohibited unlike classical *tawarruq*, which was ruled as permissible in 1998 (Al-Suwaylim 2009). As the practice verifies, instead of withdrawing from the utilisation of such an instrument, some jurist-consults in the form of *Shari'ah* scholars have appealed to the *maslahah* principle and have defended the position that lower transaction costs and greater efficiency facilitated by means of organised *tawarruq* should be considered as a public good. As an example of such justification, one of the leading *Shari'ah* scholars in Islamic finance defended the use of organised *tawarruq* on the basis of lower transaction costs in an interview with Reuters in 2009 (Islamic Finance Resource, 2009). He argued that carrying out the process of selling the assets through a bank would help minimise the transaction cost. He also stated, "How can Sharia allow something which is burdensome on a person ... and not allow something which is organised and well done, and this man who is in dire need for cash will not suffer a lot". As a result, in market societies, legitimate institutions are established based on exceptional rulings such as proxy, and in cases where such a method does not lead to legitimate products/institutions, *maslahah* or the public utility tool is utilised to justify the legitimacy of impermissible products/institutions.

The contemporary Islamic moral economy in market societies, thus, is built upon exceptional foundations, as opposed to the norm-based rules and regulations of the social formation of the pre-modern period through the *Shari'ah* compliancy process in the form nature. In other words, the direct embeddedness of an Islamic moral economy is missing in the modern period, which leads to a completely different type of Islamic moral economy in the form and frame of an emergent modernity, which may be termed as Muslim moralities due to its socially constructed nature as opposed to the ontological construct of Islamic moral economy. Hence, due to the missing elements of substance in their conduct, by moving from substantive morality into the realm of instrumental morality, business and financial transactions conducted by Muslims in modern times represent 'emergent practices', rather than form part of an emergence. 'Emergence' requires features such as novelty, structure-dependence, irreducibility, material realization, coherence and non-distributivity (*see*: Harper and Endres, 2012; Harper and Lewis, 2012), which are beyond the prevailing pragmatism observed in many practices including Islamic finance.

6. Conclusion

As explained, the emergence of the market society led to a 'great transformation' in terms of the social formation of societies, paving the way a new political economy. In this article, we explored how moral economy practices in Muslim societies have been transformed as a response to such emergent structures. We argued that, as the predominant form of reasoning in modern times, instrumental reasoning led to the establishment of institutions and the creation of instruments to facilitate the actions of Muslim individuals with the most efficient, and hence the least costly, means to achieve the intended goal. However, such efficiency is attained at the expense of the substance of the actions to a certain extent and a replacement of direct embeddedness with proxy embeddedness. In the pre-modern period, individuals were directly connected to their surroundings and their practices were submerged into the society, while in market societies, individuals have a connection with their surroundings through the proxy of institutions provided by the various means produced by the efficiency of the market. Hence, the former might be defined as direct embeddedness, while the later may be termed as proxy embeddedness.

In order to reconcile such a shift in the moral economy of Muslim societies with Islamic law, exceptional rulings within *Shari'ah* are utilised to justify the legal positions of emergent institutions. In other words, these emergent institutions and instruments have been legitimised

by ‘transforming the exception into norm’. In cases where such justification is inadequate, such as organised *tawarruq*, *maslahah* or the public good principle is used to legitimise these institutions or instruments on the grounds that the utilisation of these emergent institutions is for the common good and should be acceptable.

In the same vein, the prevailing economic development difficulties and poverty in the Muslim world has necessitated the emergence of *zakat* collection mechanisms, resulting in proxy embeddedness. As reaching out to different parts of the world to make sure the poor can have access to *zakat* inevitably generated the emergence of *zakat* collection institutions, as such a process moderates the adverse consequences of the current political economies and failed public policy prevailing in the Muslim world. Thus, the transformation of the political economy has resulted in a transformation of the *zakat* collection process as an exogenous or imposed process. In addition, regardless of the way that *zakat* is given, from a *fiqhi* perspective, individual duties are fulfilled, as *maqasid al-Shari’ah* suggests that whatever action is taken, it should aim at human well-being. Furthermore, while giving *zakat* through new channels may result in disembeddedness in the locality, the facilitation to reach the poor and needy at greater distances helps to reduce poverty, leading to different levels of proxy embeddedness while ensuring that Islamic identity remains intact by fulfilling the *fiqhi* expectations in the *maqasid* form. Thus, the realities of the modern political economy shape the nature of conducting *zakat* giving or sacrificing an animal during *eid ul-adha*, which informs us of the importance of social formation. Since the current social formation is shaped by the market economy, such processes are inevitable, while perhaps the Islamic political economy through its own particular moral economy might have developed other functional ways of delivering the same outcome in line with its own social formation.

Based on the method of justification for the institutions of moral economies, we may define the prevalent moral economies in pre-modern Muslim societies as norm-based Islamic moral economy, while the contemporary practice might be termed as exception-based Islamic moral economy. Although both kinds of moral economies represent articulations and variants of the Islamic moral economy, since the former represents the norm, we argue that it is superior to the exception-based moral economy by essentialising substance in various articulations. Thus, the impact of modern practices has resulted in the emergence of new Muslim moralities with the domination of instrumental reasoning, based on exception and *maslahah*, leading to ‘divergences’ and ‘convergences’ observed in everyday practices in relation to the norm-based

practices. It is such a facilitation which has contributed to the emergence, and sustainability, of the growth of Islamic banking and financial practices, and the expansion of *halal* or *Shari'ah* compliant businesses.

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